THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION No.23918 of 2005

ORDER:

The writ petition is filed for a writ of Mandamus declaring the action of the respondents in calling for Short Term Tenders in Rc.No.101/2004.C dated 25-10-2005 for construction of a Dwakra building in Thimmarajupeta Gram Panchayat, Munagapaka Mandal, Visakhapatnam District, contrary to G.O.Rt.No.4974 General Administration (SC.E) Department dated 13-9-2002 without disposing of the representation of the petitioner dated
27-04-2005 as per the orders of this Honourable Court in W.P.No.12101 of 2005 dated 02-06-2005 as illegal, unjust, arbitrary and violative of Articles 14 of the Constitution of India and pass such order or other suitable orders.

2. It is stated in the affidavit filed in support of the writ petition that the petitioner is the Sarpanch of Thimmarajupeta Gram Panchayat. The Government had sanctioned Rs.5,00,000/- for the construction of Dwakra building in the year 2003. As per the said sanction, the Gram Panchayat had to deposit Rs.15,000/- and Mahila Mandali had to deposit Rs.15,000/- towards their contribution respectively. Accordingly, the said contribution had been deposited. The Government also sanctioned Rice worth Rs.1,00,000/- under Food for work scheme as per G.O.Rt.No.4974 dated 13-9-2002. The

construction of said building to be done through Works Committee. As per the said G.O., removal of the debris of the building and construction had commenced with works committee, but subsequently the 1st respondent for the reasons best known to him passed no orders with the result the building which started commencement of demolition and construction in the year 2003 had come to a stand still. The monies contributed by the Gram Panchayat, Mahila Mandali and the Food for work programme namely the Rice are lying and the same are being spoiled. It is stated that the petitioner made representation to respondent on 27-04-2005 regarding the construction of Dwakra building in Thimmarajupeta Gram Panchayat, Munagapaka Mandal, in terms of G.O.Rt.No.4979 dated 13-9-2002 issued by the Government of Andhra Pradesh and no orders are passed on the representation. It is stated that the writ petitioner filed W.P.No.12101 of 2005 complaining about the inaction of the respondents in not passing orders on the representation dated 27-04-2005 and also for permission to proceed with the construction of Dwakra building in terms of G.O.Rt.No.4974 dated 13-9-2002. It is also stated that this Court had disposed of the W.P.No.12101 of 2005 at the stage of admission on 09-6-2005 directing the respondents to pass appropriate orders on the representation dated 27-4-2005 regarding the construction of Dwakra building after consulting with the District Collector as directed by the Government within a period of 3 weeks from the date of receipt of copy

of the order. It is also stated that the respondents had not passed any orders as per directions of this Court on the representation dated 27-4-2005. It is also stated that the construction of Dwakra building in Thimmarajupeta Gram Panchayat also was not handed over. Thus, it is stated that the said action is contrary to the G.Os.

3. This Court made an order of status-quo and to vacate the interim order, W.V.M.P.No.36 of 2006 is filed. In the vacate application, it is stated that it is a fact that the work for construction of Dwakra building at Thimmarajupeta was sanctioned with an estimate cost of Rs.5,00,000/- with the funding pattern of DRDA share Rs.2.00 lakhs, Mandal Parishad Rs.0.45 lakhs, Zillaparishad Rs.0-75 lakhs, Gram Panchayat Rs.0-15 lakhs, Mahilamandali Rs.0-15 lakhs and Food grains Rs.1-00 lakh. The estimate was technically sanctioned by the Executive Engineer, Panchayat Raj Department. Required site was also sanctioned by the Gram Panchayat. The work was entrusted to Dwakra group (Satya Sai Group) which is to be executed under the supervision of Mandal level committee consisting of Mandal Revenue Officer, Mandal Parishad Development Officer and Executive Engineer, Panchayat Raj. The group leader Smt.Appala Narasamma had entered into an agreement and started the construction work on 30-6-2005. While so, due to local politics, the Sarpanch of Thimmarajupeta filed W.P.No.12101 of 2005 complaining that the work was entrusted to the Dwakra group contrary to the provisions of

G.O.Ms.No.4974. In the said writ petition, this Court while disposing of the same at the admission stage directed the project director while consulting the District Collector to examine the facts and pass appropriate orders. In pursuance of the same, the matter was examined by the District Collector and found that the entrustment of work to Dwakra group is contrary to the provisions of G.O.Ms.No.4974 and G.O.Ms.No.37 and directed the Project Director and the MPDO to entrust the work to the Village Habitation Works Committee vide proceedings dated 25-7-2005. It is stated that for formation of works committee, the Grama Sabha had been conducted on 20-6-2005 which was convened by the Sarpanch, Thimmarajupeta and in the said Grama Sabha almost all the members including the members of Dwakra group accepted for formation of Works Committee. But, the Sarpanch refused to sign the minutes and did not cooperate for nomination of the works committee as per the provisions of G.O.Ms.No.37. It is also stated that the matter had been reported to the Project Director, DRDA. In view of the non-cooperation of the writ petitioner for nomination of the works committee, the project director vide proceedings Rc.No.21/2005 dated 12-9-2005 cancelled the work order given to the Dwakra group and directed the MPDO to return an amount of Rs.3,298/- to the Dwakra group leader which was spent towards the construction of building and further directed to call for tenders for completion of the balance of work worth Rs.4.97 lakhs. It is

also stated that the said cancellation of work and to call for tenders for the completion of work is in implementation of the orders of this Court and also in compliance of the provisions of G.O.Ms.No.37 and the writ petitioner purposefully avoided the nomination of works committee contrary to the request made in W.P.No.12101 of 2005. As it is not possible for nomination of works committee without the consent of the Sarpanch, the tenders were called for with a view to complete the balance work. Several other factual details and also the relevant G.O.Nos.4974 and 37 also had been referred to in detail in para-4 of the counter affidavit.

4. On a careful reading of the respective stands taken by both the parties, the main grievance of the petitioner is that the respondents are not following the procedure specified by the G.Os aforesaid. It is needless to say that the respondents are bound to follow the procedure as specified by the G.Os aforesaid. In the light of the vague stand taken in the counter affidavit, this Court is inclined to dispose of the writ petition with a direction to consider the request of the petitioner in accordance with law in the light of the G.Os. referred to supra.

5. With the above direction, the writ petition is disposed of. No orders as to costs.

11-07-2006

cvrk